IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7089 of 2007

For Approval and Signature:
HONOURABLE MS. JUSTICE R.M.DOSHIT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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V.N. KAMATH, MANAGING DIRECTOR - Petitioner(s)
Versus
KANUBHAI DAHYABHAI MOCHI & 1 - Respondent(s)

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Appearance :
Petitioner in person.
MR KS ACHARYA for Respondent : 1
MS ASMITA PATEL, AGP for Respondent : 5

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT

Date : 16/03/2007

ORAL JUDGMENT

Heard the petitioner who has appeared in person and the learned advocates. Draft amendment is allowed. The amendment shall be carried out within one week from today. Leave to correct the prayer paragraph.

RULE returnable today. Learned advocates Mr.Acharya and Ms.Patel waive service of rule. With the consent of the petitioner and the learned advocates, the petition is heard and disposed of today.

The petitioner challenges the judgment and order dated 20th February, 2003 passed by the Controlling Authority under the Payment of Gratuity Act, 1972 in Gratuity Application No.50/2002 and the consequent Recovery Certificate in the sum of Rs.70,858=00 issued by the Controlling Authority under the payment of Gratuity Act, 1972 on 31st July, 2003.

The petitioner before this Court is the Managing Director of Baroda Electric Meters, an Industry within the meaning of Section 2(j) of the Industrial Disputes Act, 1947. It appears that the workmen of the petitioner-Industry raised industrial dispute in respect of their demands regarding revision of wages and certain allowances, bonus, etc. The said dispute was referred to the Industrial Tribunal, Nadiad and

registered as Reference (ITN) No.70/1999. Pending the said Reference the petitioner and its workmen settled the matters at issue. The Tribunal, therefore, made an award in terms of the settlement on 21st June, 2000. It further appears that the petitioner failed to carry out the terms of the said settlement. Some of the workmen took out Gratuity Application No.50/2002 which came to be allowed on 20th February, 2003. Pursuant to the said order the impugned Recovery Certificate in the sum of Rs.70,858=00 came to be issued on 31st July, 2003.

Dr.Kamath, the Managing Director has submitted that since the issuance of the impugned Recovery Certificate, the matters at dispute have once again been settled between the petitioner and its workmen. By an agreement dated 26th January, 2006 the petitioner has, in full and final settlement of all the claims of the workmen, agreed to pay a sum of Rs.1,30,00,000=00. The said amount has been deposited in the Syndicate Bank at Anand. He has submitted that the Syndicate Bank at Anand has agreed to disburse the said amount amongst the workmen. He has,

therefore, submitted that the aforesaid award dated 21st June, 2000, order dated 18th December, 2003 and the Recovery Certificates issued pursuant to the said award be quashed and set-aside.

Mr.Acharya has appeared for the respondents nos.1 to 4, the office bearers of the workers' union. He has admitted that the workmen have indeed settled the the matters in terms of the agreement dated 26th January, 2006. The aforesaid respondents, therefore, shall have no objection if the petition is allowed as prayed for.

It may be noted that in view of the aforesaid settlement dated 26th January, 2006, the award dated 21st June, 2000 made on Reference (ITN) No.70/1999 has been modified by my order made today on Special Civil Application No.6790/2007.

In above view of the matter, the petition is allowed. The impugned order dated 20th February, 2003 made on Gratuity Application No.50/2002 by the Controlling Authority under the Payment of Gratuity

Act, 1972 is quashed and set-aside. Consequently, the impugned Recovery Certificate issued on 31st July, 2003 is also quashed and set-aside. Rule is made absolute. The parties shall bear their own cost.

(Ms. R.M.Doshit, J.)

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